

Petriman, Viorica

From: Dan E Walsh <dewalsh@gw.dec.state.ny.us>
Sent: Wednesday, July 02, 2014 3:40 PM
To: Petriman, Viorica
Subject: Greenidge Station NOx RACT Plan
Attachments: Westover Greenidge NOx RACT submittal 12-22-2011.pdf

Attached

December 21, 2011

SENT VIA FEDEX – SIGNATURE REQUIRED

Mr. Robert Sliwinski
New York State Department of
Environmental Conservation
625 Broadway
Albany, New York 12233-0001

Re: AES Greenidge LLC (Unit 4) and AES Westover LLC (Unit 8) --
NO_x RACT Determination Request

Dear Mr. Sliwinski:

This submission is made to the Department pursuant to 6 NYCRR § 227-2 to demonstrate that the control technology and attendant NO_x emission rates/limits provided for in the Consent Decree entered on March 29, 2005, and signed by U.S. District Judge Charles J. Siragusa in the United States District Court for the Western District of New York in *State of New York, et al. v. New York State Electric & Gas Corporation, et al.* (no. 05-CV-6014) (“AES Consent Decree”), establish the NO_x Reasonably Available Control Technology (RACT) for AES Greenidge LLC Unit 4 and AES Westover Unit 8 sources (“AES Units”). That is, the technology present at the AES Units, and the NO_x emission limits for the AES Units established pursuant to the AES Consent Decree, govern and satisfy the requirements of 6 NYCRR 227-2, including 227-2.3 and 227-2.4.

Consent decrees have attributes of contracts and judicial orders. *Local No. 93, Int’l Ass’n of Firefighters v. City of Cleveland*, 478 U.S. 501, 519 (1986). The AES Consent Decree, among other measures, specifically and clearly establishes the technology and NO_x emissions limits for the AES Units.¹

Foremost, page 11, Section VI.A. 37 of the AES Consent Decree states, in pertinent part: “The requirements for the operation of Greenidge Unit 4 using the MPC Project are governed by this Paragraph 37[.]” The remainder of paragraph 37 goes on to provide, in great detail, the NO_x emission limits for AES Greenidge Unit 4 under a variety of operating loads. *See AES Consent Decree, pp. 12-15*. The degree of specificity in the AES Consent Decree for NO_x emissions limits at AES Greenidge 4 Unit

¹ The language of the AES Consent Decree as concerns NO_x technology and limits for AES Westover Unit 8 is effectively the same as the language for AES Greenidge Unit 4 concerning the same topics. Therefore, for brevity, while this letter memorandum focuses on so much of the AES Consent Decree as regards AES Greenidge Unit 4, the same analysis and conclusions apply equally to AES Westover Unit 8.

includes scenarios for “High Operating Load,”² “Low Operating Range” and, significantly, a “final graph” “representing the final NO_x emission rate at a given heat input [].” *Id. at p. 14, ¶ VI.A.26.*

Likewise, the AES Consent Decree specifies the technology to be used at AES Greenidge Unit 4 to achieve such limits. *Id. at p. 11, ¶ VI.A.37* “[] using the MPC Project []”; and *id. at p. 7, III.19* (defining “MPC Project”).

Notably, AES has been operating the AES Units using the control technology and under the respective final NO_x emission graphs submitted to the Department at the requisite emission limits--all as established in the AES Consent Decree--for years.

In addition, page 24, Section 42.C, paragraph 44 of the AES Consent Decree states, in pertinent part:

“The emission limits (with corresponding “compliance data,” i.e., the date each permit limit takes effect pursuant to this Consent Decree) set forth in Paragraphs 27 and 42, shall be incorporated into the Title V or Air State Facility permits for each of those Plants. [].

[A]ny term or limit established by or under this Consent Decree shall be enforceable under this Consent Decree (subject to the terms of Section XIII herein), regardless of whether such limit has or will become part of a Title V or Air State Facility permit.”

The primacy of “any term or limit” in the AES Consent Decree over any Title V permit underscores the controlling and enduring nature of the AES Consent Decree as regards NO_x control requirements. Moreover, application of the emission limits and related provisions contained in 6 NYCRR 227-2.4 would conflict with the averaging periods and technological limitations, including the startup/shutdown plan set forth in the AES Consent Decree -- another indication that the AES Consent Decree establishes the NO_x RACT requirements for the AES Units.

Finally, and of equal significance to the above, the AES Consent Decree establishes the AES Greenidge Unit 4 MCP Project and its emission limits and technology, and the AES Westover Unit 8 Clean Coal Project or “CCP”³ and its emission limits and technology, as the Best Available Control Technology (“BACT”) for these units. BACT here is, by definition, more stringent than RACT, particularly when

² The AES Consent Decree contains a number of defined terms.

³ “Clean Coal Permit” or “CCP” is defined at p. 7, Section III.18 of the AES Consent Decree and applied as regards NO_x emission limits and graphs beginning on p. 19 thereof.

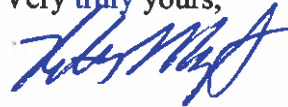
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considering the same pollutant, NO_x, was a centerpiece of the AES Consent Decree and the same sources are being considered for RACT as they were for BACT under the AES Consent Decree. Likewise, it follows that because EPA has announced that compliance with the Cross-State Air Pollution Rule ("CSAPR") is likely to constitute compliance with the best available retrofit technology requirements, *see Clean Air Report – www.InsideEPA.com – November 10, 2011 at 10*, compliance with CSAPR should constitute compliance with NO_x RACT requirements.

In addition, AES Westover is providing notice that it intends to permanently shutdown the auxiliary boiler by December 31, 2014.

Accordingly, AES respectfully requests that the Department affirm that the provisions of the AES Consent Decree, including the control technology listed therein and currently employed at the AES Units, establish NO_x RACT for such sources under 6 NYCRR 227-2.

Very truly yours,



Peter Norgeot

cc: B. Rady/AES Greenidge
D. Daniels/AES Westover

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Bcc Peter Bajc/AES Somerset
Jerry Goodenough/AES Cayuga
Jon Reimann/AES Somerset
Robert Alessi/DL